

UTAH AIR QUALITY BOARD MEETING
January 4, 2006

FINAL MINUTES

I. Call to Order

John Veranth called the meeting to order at 1:35 p.m.

Board members present:

Scott Lawson	Wayne Samuelson	John Veranth	Don Sorensen
Jerry Grover	JoAnn Seghini	Ernest Wessman	Nan Bunker
Jim Horrocks	Dianne Nielson	Stead Burwell	

Executive Secretary: Richard W. Sprott

II. Date of the Next Air Quality Board Meetings

February 1, 2006 and March 8, 2006.

III. Approval of the Minutes of the November 2, 2005 Board Meeting

No corrections needed to be made in the minutes.

- Mr. Wessman made the motion to approve November's minutes. Mr. Sorenson seconded and the Board approved unanimously.

IV. Final Adoption: Amend R307-170, Continuous Emission Monitoring Program. Presented by Norm Erikson.

Mr. Erikson stated that on September 7, 2005, the Air Quality Board proposed for comment amendments to R307-170, Continuous Emission Monitoring Program. R307-170 was proposed for comment to reconcile conflicts with the federal Acid Rain program and correct other minor grammatical and punctuation errors. A public hearing was held on October 20, 2005. No oral or written comments were received about this proposal. He then stated that the staff recommends that the Board adopt R307-170 as proposed at the September Board meeting.

- Ms. Seghini made the motion to adopt R307-170 as proposed at the September Board meeting. Ms. Bunker seconded and the Board approved unanimously.

V. Amended Discovery Schedule for Sevier Power Plant. Presented by Chris Stephens.

Mr. Stephens stated that the parties have discussed an amended schedule for discovery and other pre-hearing matters in this appeal. The schedule is included in the board packets.

Fred Nelson stated that discovery is currently underway and will end January 30, 2006.

Mr. Grover asked if they received an answer from Sevier County Citizen's (SCC) regarding the schedule. Mr. Stephens stated that they had and the parties are in agreement with the schedule. He also stated we have a proposed order with deadlines. The Board will need to decide if the Board will have the hearing in May or June because the parties could not agree on this matter. Mr. Sprott stated that it would be appropriate to have the hearing in May.

Mr. Kennon asked what the dispositive motions are. Mr. Nelson stated that there are two kinds of dispositive motions one is for judgment on pleadings and the other is motion for summary judgment.

Mr. Kennon then asked what is the criteria for determining what the merits are. Mr. Nelson stated that to look at the charges if any and to look at any evidence.

Mr. Veranth asked Mr. Kennon if he was in agreement with the schedule. Mr. Kennon stated he would prefer a June hearing date.

Bruce Taylor with Sevier Power stated that the delays are not justified and we need to move forward with this process. He also stated he was not aware of any agreement between the parties.

Ms. Nielson asked what dates would Sevier Power consider. Mr. Taylor stated he just wants to accelerate the process. Ms. Nielson asked if the scheduled needed to be adjusted. Mr. Taylor said no.

- Mr. Horrocks moved to adopt the order with a hearing before the full Board scheduled for May. Mr. Sorensen seconded. Mr. Wessman recused himself from this action item. Mr. Grover opposed.

Mr. Veranth stated we will decide at April's board meeting on scheduling an extra meeting for the hearing.

Ms. Seghini asked if we could have a telephone conference because of the travel and hardship on SSC. Mr. Sprott agreed to work out the telephone conference with SCC.

John Veranth stated we received a letter from the Sevier County Commission regarding the delays in the Sevier Power project. Ms. Nielson stated that she had received a telephone call from them as well about considering the schedule.

Mr. Nelson stated that he received notice that the Court of Appeals referred the Sierra Club case appealing the Board's standing decisions to the Supreme Court. Mr. Grover asked if the Court of Appeals decided anything. Mr. Nelson stated they have not. Mr. Horrocks asked what the timeline was for the Supreme Court. Mr. Nelson stated it varies based on the case.

VI. Request for a Hearing on a Compliance Action on Pine Factory. Presented by Melissa Hubbell.

Mr. Nelson stated that a notice of violation has been issued against Pine Factory and we are asking the Board to appoint a hearing officer.

Mr. Grover asked how much time would be asked of the hearing officer. Ms. Hubbell stated half a day. Mr. Veranth asked if it would be local. Ms. Hubbell stated yes it would be local.

Mr. Wessman offered to be the hearing officer.

- Mr. Horrocks moved that Mr. Wessman be the hearing officer. Mr Veranth seconded and the Board approved unanimously.

VII. Informational Items

A. Clean Fuel Vehicle Fund Update.

B. The Power Forward Update. Presented by Glade Sowards.

Glade Sowards introduced himself as the new Energy Program Coordinator at Air Quality and Mr. Sowards provided an update on the Clean Fuel Vehicle Fund (CFVF) and the Power Forward Program with a slide presentation. See attachment #1. Mr. Sowards stated that the CFVF provides grants and loans to businesses and government for alternative fuel vehicle purchases or conversion. Mr. Burwell asked if certain hybrids would qualify. Mr. Sowards stated they are excluded by statute.

Mr. Sowards stated that the fund was transferred to the Department of Environmental Quality (DEQ) in 2005. This will now give DEQ an opportunity to make the fund more responsive to technological and regulatory changes and would also have continued support of traditional uses. He also stated that this will require new administrative rules for DEQ and the Board.

He then stated that there will be proposed changes in the CFVF such as providing grants and loans for vehicles, fuel systems, propane and electricity. He stated that there would be federal and non-federal grants to purchase these systems. Mr. Wessman stated that there will be a new scope and boundaries and they would need to set up rules and set statutes.

Mr. Burwell asked if the fund had been used. Mr. Sowards stated that people have used it and have taken advantage of the tax credit.

Kathy Van Dame stated that she is a stake holder and didn't like the idea that hybrids were excluded from this program. She also stated that there are other hybrid technologies that needed help such as the hybrid that you plug in at night.

Mr. Horrocks asked if the fund would ever be more than the two and a half million dollars. Mr. Sowards stated that there is a cap set at 10 million.

Mr. Sowards then outlined another new energy program in DAQ-Power Forward. The Power Forward Program was established by Governor Michael Leavitt in response to the 2000-2001

California energy crisis. They started a voluntary conservation and peak-shifting campaign, alert system. They also have a media and information program. The program was run by the Utah Energy Office until it was dissolved in 2005. It was then transferred to DAQ. PacifiCorp funded the project in 2005.

Mr Sowards then stated that Program was successfully administered by DAQ. In the summer of 2005 there were eight yellow days in the Wasatch Front and 11 in the Dixie Valley. He then stated that we would like to expand participation to other utilities.

Mr. Burwell asked about the yellow days and what that meant. Mr. Sowards stated that on yellow days power should be conserved and it is mostly a summer issue.

C. NSR Reform Stakeholder Meeting Update. Presented by Jim Schubach.

Mr. Schubach provided an update on the NSR Reform Stakeholder meeting with a slide presentation. See attachment #2.

Mr. Schubach explained that the definition of the actual to projected actual of a major modification is the baseline actual emissions, the projected actual emissions, baseline actual to projected actual and the plant-wide applicability limits (PAL). Mr. Schubach stated that the rule was designed to encourage increased operational flexibility while maintaining air quality standards. Sources will make energy efficient improvements, invest in new technologies and modernize facilities.

Mr. Burwell asked where the emissions ceilings would go. Mr. Schubach stated that there is no way to know. Mr. Wessman stated that the concern about emissions ceilings being increased as a result of the changes in the rules is more theoretical than real, because in actual practice sources would not be increasing overall emissions if PALs were implemented. He then explained that the current rules actually work against minimizing emissions. This is because sources are discouraged from minimizing emissions, because of the “actual to projected actual” test. In order to avoid triggering NSR, the sources are likely to maintain high levels of emissions within their approved permit limits. Mr. Wessman suggested that the effectiveness criteria for the rule should be how it affects current behaviors and encourages sources to reduce emissions.

D. Compliance. Presented by Jeff Dean.

No items were presented.

E. HAPS. Presented by Robert Ford.

Mr. Ford stated that there had been a criminal investigation performed by the USEPA for the Marie Callender’s Restaurant in Midvale, Utah. He stated that on October 12, 2005, Marie Callender’s was sentenced for a one count misdemeanor of the Clean Air Act and was fined \$50,000 and an additional \$125 special assessment that was paid to the U. S. Treasury. Marie Callender's was also ordered to pay \$15,000.00 to the Utah Division of Air Quality to resolve

the State's Notice of Violation, pay \$50,000 to the Western States Project (organization that provides environmental enforcement training to state and local regulatory officials) and pay an additional \$28,200 for environmental projects and training outlined in the plea agreement. The total fines for the Marie Callender's plea agreement was \$143,325.

Mr. Ford stated that in 1999 Marie Callender's started a project to remove their wood shake shingle roof at the Midvale restaurant that included an asbestos felt paper underlayment. Marie Callender's had several contractors provide bids for the project and they were made aware of the possibility of the asbestos underlayment by one of the bidding contractors. Marie Callender's chose another contractor for the project and did not make that contractor aware of the asbestos underlayment.

A question was asked how the Division found out about the Marie Callender's project. Mr. Bird stated that another contractor that was aware of the asbestos problem turned them in. Mr. Sprott stated that there were criminal charges but they settled with a plea agreement.

F. Monitoring. Presented by Bob Dalley

Mr. Dalley stated that there was an inversion in November and in December there was no exceedance in PM¹⁰.

Meeting was adjourned at 3:23 p.m.